

Good morning, Chair XX and Commission and Board Members. *[Tony]* My name is Tony Barber. I'm the Director for the Oregon Operations Office and the manager for the Forest Team for the Environmental Protection Agency's Region 10 Offices. *[Alan]* My name is Alan Henning. I'm the Forest Team representative and XX for the Watershed Unit for the EPA's Region 10 Office in Eugene. *[Tony]* Thank you for the opportunity to share our thoughts with the Commission and Board Members.

Today, I'm going to talk about EPA's role in water quality and fish in Oregon, our support for the Riparian Rule and why it's important, what we believe the rule should address, and how this relates to the approvability of the Oregon's Coastal Nonpoint Program.

EPA's Role. EPA implements the Clean Water Act in partnership with states and tribes. This includes acting on the state's water quality standards, 303(d) Integrated Report, total maximum daily loads (TMDLs), state nonpoint source and coastal zone management programs, and overseeing NPDES permits issued by the state. We work closely with the Oregon Department of Environmental Quality and other state agencies on these efforts. EPA is also responsible for overall implementation of the Safe Drinking Water Act in partnership with the Oregon Department for Human Services and DEQ.

EPA gives technical and financial support to states and tribes to help them implement programs that protect and restore surface and drinking water. Where states and tribes fail to carry out Clean Water Act responsibilities, or when directed by the Courts, EPA is required to take the actions needed to meet national water quality goals.

Why the Riparian Rule is Important. EPA recognizes that Oregon is one of the first states in the country to develop forest practice rules and regulations. These affect drinking water sources, water quality, and aquatic habitat for threatened and endangered salmon on 12 million acres of non-federal forest land in Oregon. Because forest practices have direct and important effects on water quality, fish habitat and other beneficial uses, the riparian rule analysis has significant implications to EPA. Over time, we have closely tracked and reviewed proposed amendments to forest practice rules and regulations for riparian buffers on Oregon streams.

The riparian rule analysis is the culmination of a process that started with Oregon Coastal Salmon Restoration Initiative, Oregon's IMST, and the Sufficiency Analysis in the 1990s and the Ripstream Studies in the early 2000s. These studies indicate that existing forestry practices do not consistently meet water quality standards or fully provide riparian functions important to water quality and fish. With stream temperature directly affecting fish health and behavior, A new riparian rules calling for

larger buffers on smaller and medium fish-bearing streams will ensure stream temperatures provide the cold stream temperatures critical to fish health. The new riparian rules for medium and small fish-bearing streams will also improve drinking water and surface water quality by reducing runoff from other pollutants such as fine sediment, toxics, and nutrients.

What the Rule Should Address. Because of the direct and important effects forestry has on Oregon waters, EPA considers it important that the rule not only address the riparian management practices, but also where the riparian rule applies. EPA supports a Rule that applies to all small and medium fish-bearing streams to protect existing cold water and restore cold water in streams with currently high temperatures.

XX river miles of Oregon streams have been or are currently impaired for temperature and other pollutants, which impacts fish and other organisms that rely on cold water to live and grow. EPA strongly supports a Riparian Rule that applies to all small and medium fish-bearing streams whether they are impaired or not impaired. A Riparian Rule whose scope is limited to streams with existing cold temperatures would exclude a large universe of streams with high temperatures that need to be restored. EPA's 2000-2003 Temperature Project, an interdisciplinary team of water quality specialists, fish biologists, hydrologists, and other scientists from multiple agencies and organizations in the Northwest, concluded the most important factors for salmon are cold water and a return to a natural thermal regime. A riparian rule with an appropriate buffer width applied on all small and medium fish-bearing streams would be instrumental to successful protection and restoration efforts for fish and trout in Oregon.

How Does This Relate to the Coastal Nonpoint Program/CZARA? The Riparian Rule also overlaps with EPA and NOAA's recent disapproval action in January 2015 on Oregon's coastal nonpoint program. While EPA and NOAA acknowledged significant progress in Oregon's nonpoint coastal program, they also identified gaps in Oregon's forestry program as a basis for the disapproval. One of these was the inadequacy of current forest riparian buffers on small and medium fish bearing and non-fish bearing streams. EPA believes that a Riparian Rule with an appropriate buffer width applied to all small and medium fish bearing streams would be significant in moving the State's program to approvability. Although other areas in forestry would need to be addressed for full approval of Oregon's forestry measures, a riparian rule that calls from appropriate buffers widths on small and medium size streams would fill a significant gap identified in EPA and NOAA's evaluation of Oregon's forestry program in our agencies' disapproval action. If the Board of Forestry would like to hear more information on our CZARA

findings on forestry at another meeting, we would be very happy to have a dialogue with more detail on the other areas that EPA and NOAA identified.

Closing Words. Riparian management areas on small and medium fish bearing streams are important to protection and restoration of riparian functions important for fish and water quality. We applaud the Board of Forestry on considering the amendment of Forest Practices Act regulations that will provide greater protections on small and medium fish-bearing streams and urges you to adopt such a measure.

I want to thank you again for the opportunity to provide this testimony and would be happy to answer questions you may have at this time. Alan Henning, our Forest Team representative, and I are both available to discuss these issues further with you.

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Comment [KD1]: Does this term refer to the Board's deliberation on whether to have a riparian rule or does it refer to the Board's analysis of the riparian rule?

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rules calling for larger buffers on smaller and medium fish-bearing streams will ensure stream temperatures provide the cold stream temperatures critical to fish health. The ~~N~~new riparian rules for medium and small fish-bearing streams will also improve drinking water and surface water quality by reducing runoff from other pollutants such as fine sediment, toxics, and nutrients.

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